

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Establishment of Manatee Protection Areas in Kings Bay, Crystal River, Florida**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rulemaking.

**SUMMARY:** This rule establishes three permanent manatee sanctuaries in Kings Bay, Crystal River, Florida. All waterborne activities will be prohibited in these sanctuaries during the period November 15 through March 31 of each year. The purpose of the action is to prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. This action follows the emergency establishment of a manatee refuge in Kings Bay, effective January 11, 1980. The emergency action which was taken to provide temporary protection of manatees from harassment during the 1979-80 winter season has now expired.

**EFFECTIVE DATE:** This rule becomes effective on November 15, 1980.

**ADDRESSES:** Questions concerning this action may be addressed to the Regional Director, U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Jim Baker, Jacksonville Area Office, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202, 904/791-2267 or Robert R. Prather, Senior Resident Agent, U.S. Fish and Wildlife Service, 2639 N. Monroe Street, Box 56, Tallahassee, Florida 32303, 904/386-8079.

**SUPPLEMENTARY INFORMATION:** On August 12, 1980, the Service published a proposed rulemaking in the *Federal Register* (45 FR 53495). The proposal was to establish three permanent manatee sanctuaries, prohibiting all waterborne activities from November 15 through March 31 each year, in Kings Bay, Crystal River, Florida. That proposal summarized the factors, laws, regulations, and evidence on which the final determination is based. The proposal also specified the prohibitions and exemptions which would be applicable if the three permanent manatee sanctuaries were established. The proposal invited public comment through September 12, 1980. In addition, a public meeting was held on August 26, 1980, at Crystal River for the public to

make comments and to ask questions of Service representatives concerning the establishment of the sanctuaries. Prior to publishing the proposed rulemaking, a meeting was held at Crystal River on May 20, 1980, to inform the public about the problems associated with waterborne activities and to explain the forthcoming proposed rulemaking for the sanctuaries.

During the August 26, 1980, public meetings, comments concerning the establishment of sanctuaries were made by 14 people. Five individuals supported the proposal and eight were against the establishment of sanctuaries as proposed. The remaining comment primarily concerned weed control rather than sanctuaries. A considerable number of questions were asked by the public of Service representatives during the meeting. Most of the questions involved the need to establish sanctuaries, manatee movements in the local area, and the impacts of the establishment of sanctuaries on divers and dive shops. There were also several questions concerning aquatic weed control in Crystal River, even though the Service emphasized that this was a separate issue unrelated to the establishment of manatee sanctuaries.

A letter was sent to Governor Graham of the State of Florida on August 18, 1980, notifying him of the proposed rulemaking for the manatee sanctuaries. On August 15 and 25, 1980, letters were sent to appropriate Federal agencies, local governments, and/or other interested parties notifying them of the proposal and soliciting their comments and suggestions. The only official respondents were the Florida Department of Natural Resources and the National Marine Fisheries Service.

**Summary of Comments and Recommendations**

Three petitions containing 266, 91, and 52 signatures, respectively, in support of the proposal were received during the comment period. One petition received contained 65 signatures requesting that the Service refrain from imposing additional restrictions in Crystal River.

Aside from the petitions, the Service has received a total of 31 comments. Of these, 20 were submitted by individuals primarily from the local area around Crystal River, one was submitted by an attorney representing a landowner asserting ownership claims within one sanctuary, and eight were submitted by conservation, humane, or environmental groups. One comment was received from the State Department of Natural Resources and one comment was received from the National Marine Fisheries Service.

Only a few specific recommendations were made in these comments, and where pertinent are discussed below. None of these recommendations has been adopted.

Of the 20 individuals submitting comments, 18 were in support of the proposal. One homeowner on Kings Bay commented that manatees could be better protected by year around regulations of boat speeds and that "herding" of manatees into the sanctuaries is not beneficial to them. The Service has found that the manatees congregate in Kings Bay during the winter months near the warm springs and thus are susceptible to boating hazards. In addition, harassment by swimmers and divers is a significant disturbance factor. The sanctuary will provide an area free of disturbance to the manatee. The effects on the manatees' normal habits for the periods they may seek refuge will be studied by the Service. Another homeowner on the Bay was opposed to the establishment of sanctuaries in Kings Bay because of the high demand for human water-related activities. The Service did not include all the warm springs in the area, only those most critical to the manatee. Waterborne activities are only affected in the sanctuary area during the winter. This area is a small portion of the total available area.

The attorney opposing the sanctuaries on behalf of his client commented that his client owned property within the proposed Banana Island Sanctuary. The Service is aware of this claim and will resolve the question of ownership prior to the posting of the boundaries of this sanctuary.

Of the environmental groups, Defenders of Wildlife and the Monitor consortium supported the proposal. They both commented that the Main Spring in Kings Bay should also be established as a sanctuary for manatees. The Service feels that the three sanctuaries, as proposed, will be sufficient to offer protection to manatees. However, these sanctuaries will be evaluated periodically and the reactions of manatees to the sanctuaries will be documented so that future needs of the manatee can be accommodated if necessary.

Defenders also commented that the Service should establish a boundary of PVC pipe at the Magnolia Springs Sanctuary similar to the boundaries to be established for the other two sanctuaries. The Service believes that signs marking the boundaries of the Magnolia Springs Sanctuary will be adequate, coupled with regular patrol by law enforcement officers, to prevent trespass, particularly since this area is

located in a canal blocked at one end by a bridge and therefore has no boat through-traffic.

The Clean Environment Consistent With Property Rights, Inc. commented that speed limits were effective and did not favor the closing of public waters to the public. They also opposed government restrictions and use of private property without providing just compensation. The issue of boat speeds was previously addressed. The Service believes the regulations are needed to prevent harassment in the definition of "take" as defined by the Endangered Species Act of 1973 (16 USC 1532(19)) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(13)); these regulations are consistent with both Acts. The Service is again aware of claims and will resolve the question of ownership prior to posting of the sanctuary boundaries.

Letters of support for the proposal were also received from: National Audubon Society, Southeastern Florida Office; Florida Audubon Society; Orange Audubon Society; Citrus County Audubon Society; Animal Protection Institute of American and Humanitarians of Florida, Inc.; Florida Department of Natural Resources; and the National Marine Fisheries Service.

After a thorough review and consideration of all the available information, this rule establishes the manatee protection areas in Kings Bay, Crystal River, Florida as previously proposed pursuant to the provisions of Title 50, Chapter I, Subchapter B, Part 17, Subpart J. This action is taken under the authority of the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and 50 CFR 17.103.

#### National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Jacksonville Area Office, 15 North Laura Street, Jacksonville, Florida 32202, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

#### Primary Author

The primary authors of this rule are Jim Baker, Jacksonville Area Office, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202, 904/791-2267, and Robert R. Prather, Senior Resident Agent, U.S. Fish and

Wildlife Service, 2639 N. Monroe Street, Box 56, Tallahassee, Florida 32303, 904/386-8079.

#### Regulations Promulgation

Accordingly Title 50, Chapter I, Subchapter B, Part 17, Subpart J, subsection 17.108, List of Designated Manatee Protection Areas, is amended by adding the following:

##### § 17.108 List of Designated Manatee Protection Areas.

(a) *Manatee Sanctuaries.* The following areas are designated as manatee sanctuaries. All waterborne activities are prohibited in these areas during the period November 15-March 31 of each year. The areas which will be posted are described as follows:

(1) That part of Kings Bay, Crystal River, Citrus County, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW  $\frac{1}{4}$  fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N-1,653,459/E-308,915) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay near the southwest corner of Lot 9 as accepted on a plat by the Department of the Interior, General Land Office, dated January 10, 1928; thence easterly, along said shoreline, approximately 1240 feet to Corner 2 (N-1,653,762/E/309,641) a point; thence S. 56°58'11" W., across open water, 776.49 feet to Corner 3 (N-1,653,339/E-308,990) a point; thence N. 32°03'07" W., across open water, 142.28 feet to the point of beginning, containing 3.41 acres, more or less, to be known as the Banana Island Sanctuary.

(2) That part of Kings Bay, Crystal River, Citrus County, Florida, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW  $\frac{1}{4}$  fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N-1,652,684/E-309,396) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay, said point being the northwest corner of Lot 31 Sunset Shores Addition to Woodward Park (Plat Book 2, page 140 Citrus County Property Appraiser's Office); thence N. 35°05'33" W., across open water, 439.10 feet to Corner 2 (N-1,653,043/E-309,144) a point; thence N. 67°23'28" E., across open water, 873.45 feet to Corner 3, a point on the shoreline of Kings Bay said point also being a corner in the northerly boundary line of Lot 21 in said subdivision; thence southwesterly along said shoreline and the northerly boundary of Lots 21-31, including a canal, approximately 920 feet to the point of beginning, containing 5.62 acres, more or less, to be known as the Sunset Shores Sanctuary.

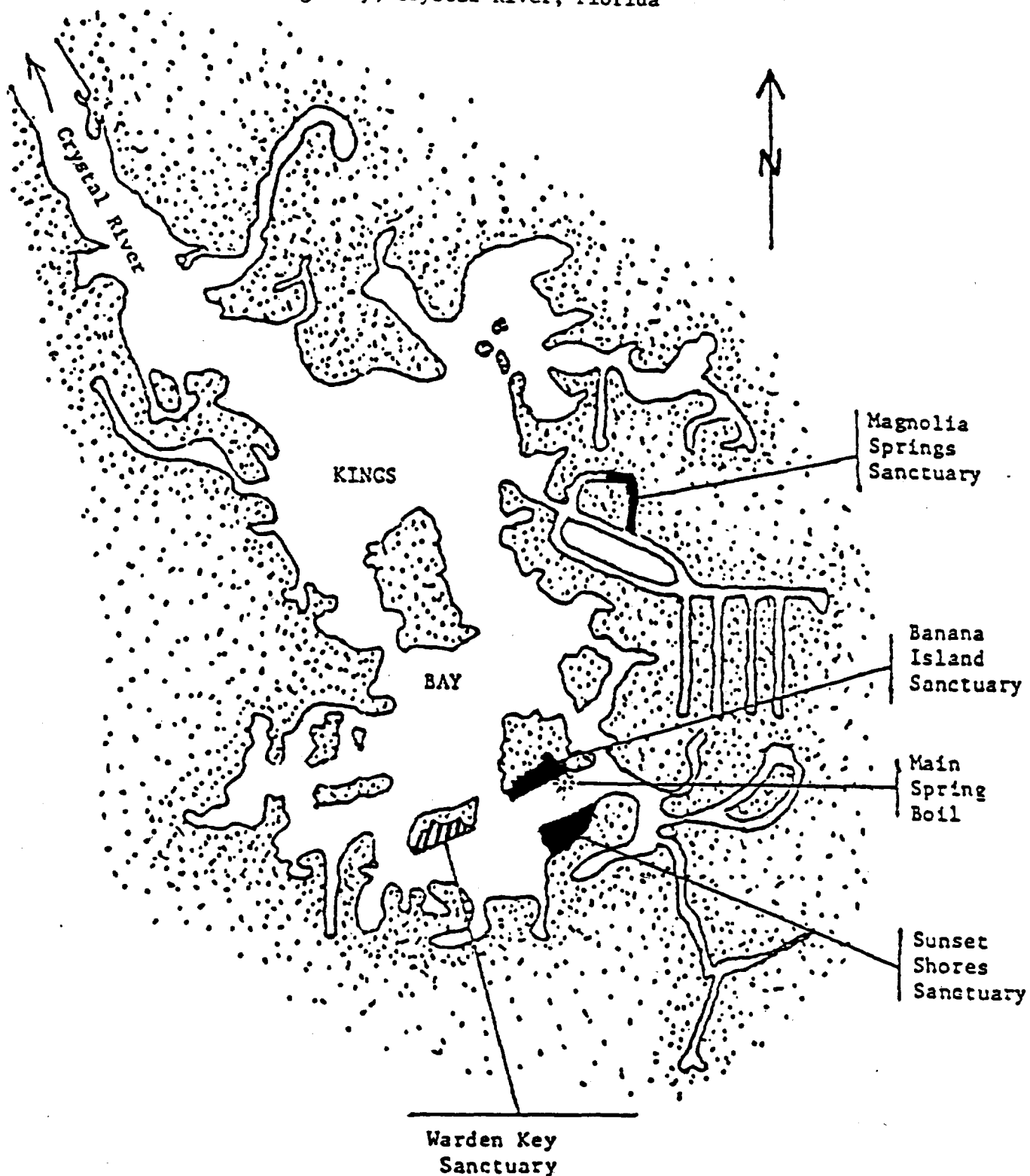
(3) That part of Crystal River, Citrus County, Florida, within the Springs O'Paradise subdivision, T. 18 S., R. 17 E., Tallahassee Meridian; located in SE  $\frac{1}{4}$  and SW  $\frac{1}{4}$  fractional section 21 and NE  $\frac{1}{4}$  fractional section 28, more particularly described as follows:

Beginning at Corner 1, the southeast corner of Lot 3 Paradise Isle Subdivision (Plat Book 3, page 88 Citrus County Property Appraiser's Office); thence N. 89°48'30" E. along an extension of the south line of said Lot 3, across Spring Run, approximately 120 feet to Corner 2, a point in the line of mean high water on the east side of Spring Run; thence northerly along said mean high water line approximately 500 feet to Corner 3, a point in the line of mean high water on the north side of Caspian Canal; thence westerly along said mean high water line approximately 300 feet to Corner 4, a point on the east side of the S.W. 1st Court bridge; thence south along said bridge approximately 50 feet to Corner 5, a point in the line of mean high water on the south side of Caspian Canal; thence easterly along said mean high water line approximately 200 feet to Corner 6, a point in the line of mean high water on the west side of Spring Run; thence southerly along said mean high water line approximately 400 feet to the point of beginning, containing 1.70 acres, more or less, to be known as the Magnolia Springs Sanctuary.

##### (b) *Exception for Residents*

Boat access to private residences, boat houses, and boat docks through these sanctuaries by the residents and their authorized guests is permitted. Any such authorized boating activity must be conducted by operating motorboats at idle speed/no wake. Residents' boats will be identified by the placement of a sticker provided by the Fish and Wildlife Service in a conspicuous location on each boat. Use of the waters within the sanctuaries by boats will be only for the purpose of access to residences and the storage of such boats in waters adjacent to residences.

MANATEE SANCTUARIES  
Kings Bay, Crystal River, Florida



Dated: November 5, 1980.  
Robert S. Cook,  
Acting Director, U.S. Fish and Wildlife  
Service.

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